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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,778	01/22/2004	Richard C. Darr	03-218	6145

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EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,778

Applicant(s)

DARR ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 8, 12, 13, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeuchi.

Takeuchi teaches a plastic bottle with a base, a sidewall (11) extending from the base and a shoulder (12) extending up from the sidewall and a neck extending up from the shoulder to define an opening (2). The plastic bottle includes a separate plastic handle (7) with an annular portion (8) having recessed portions at 14 engaging projections (13) on the neck, as claimed. The handle is made of plastic and has a downwardly extending arm. The bottle in Figure 4 has a recess near the base as well as in the shoulder. Note the recessed curvature adjacent the handle (7). The end is unattached, as shown.

2. Claims 1-3, 8, 12-14, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson.

As with Takeuchi, Thompson teaches a plastic bottle with an attached plastic handle. The bottle of Thompson also includes a base with a sidewall (22) extending from the base and a shoulder (20) extending up from the sidewall. A neck extends up from the shoulder and includes a thread at (14) and a support rim (16). In figure 12C projections (47) are provided on the neck with recesses

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(32) on the annular portion of the handle. Note the recess at 24 that receives the handle (12). There is a ridge at the bottom of the recess (24).

3. Claims 22-24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Bushman.

Bushman teaches a plastic handle attachable to a bottle neck. The handle is a foldable handle with two hinged sections each with a semi circular portion and engagement portions (21,22,25 and 26) which engage with the neck (19 and 20) of the bottle when closed about the neck as claimed. Note the projection (20) and recess (25 and 26). The handle includes a pair of arms (11 and 12) which have opening and pin engagement means at 40,42 as claimed,

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi.

The end of the handle (7) of Takeuchi shown in Figure 3 is considered to be free. Whether it is above the ridge of the recess or below is considered to merely be a matter of degree difference and therefore obvious to one having ordinary skill in the art.

5. Claims 3, 4, 7, 14, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined disclosures of Takeuchi and Thompson.

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To have merely provided the bottle of Takeuchi with a plurality of engaging means and threads on the neck to receive a threaded closure would have been obvious in view of such teaching by Thompson as shown in Figure 12C. Moreover to have provided the bottle of Thompson with a peripheral recess near the base to strengthen the bottle would have been obvious in view of Takeuchi as shown in Figure 3.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above and further in view of Bushman..

To have made the separately applied handle on the bottle of either Takeuchi or Thompson as a hinged two part handle for ease of application to the bottle neck would have been obvious in view of such teaching by Bushman.

7. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2 and 13 above, and further in view of Eiten.

To have provided ribs in the shoulder of the bottle of either Takeuchi or Thompson to strengthen the shoulder for top loading would have been obvious in view of Eiten at 56, 58, 60 and 62.

8. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 8 and 18 above, and further in view of Umetsu et al.

To have provided strengthening ribs in the recessed curved wall would have been obvious in view of such teaching by Umetsu et al (see Figure 9).

9. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2 and 13 above, and further in view of Krishnakumar et al.

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To have provided the bottle of either Takeuchi or Thompson with a well-known recessed ribbed base structure to strengthen the bottom would have been obvious in view of the teaching by Krishnakumar et al.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 24 above, and further in view of Thompson.

To have formed the engagement portions of the bottle and handle as a plurality of portions spaced about the neck and handle would have been obvious in view of such teaching by Thompson.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites the limitation "the handle portion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Applicants have not set forth any particular handle constructions in claim 12 or 13 to establish a handle portion.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Falcaro and McCrumb show other handle attachments. Weick et al and Hayashi et al show other reinforced bottoms.

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of

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mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW


Sue A. Weaver
Primary Examiner